

The Conference substitute adopts the House provision with respect to the recommendations of the 9/11 Commission.

The Conference notes that in late 2005 the members of the 9/11 Commission also made the following determinations: (1) The United States Government has made insufficient progress, and deserves a grade “D”, on efforts to prevent weapons of mass destruction (W.D.) proliferation and terrorism. (2) The Cooperative Threat Reduction (CAR) Program has made significant accomplishments but much remains to be done to secure weapons-grade nuclear materials. The size of the problem still dwarfs the policy response. Nuclear materials in the Former Soviet Union still lack effective security protection, and sites throughout the world contain enough highly-enriched uranium to fashion a nuclear device but lack even basic security features. (3) Preventing the proliferation of W.D. and acquisition of such weapons by terrorists warrants a maximum effort, by strengthening counter-proliferation efforts, expanding the Proliferation Security Initiative (PSI), and supporting the CAR Program. (4) Preventing terrorists from gaining access to W.D. must be an urgent national security priority because of the threat such access poses to the American people. The President should develop a comprehensive plan to dramatically accelerate the timetable for securing all nuclear weapons-usable material around the world and request the necessary resources to complete this task. The President should publicly make this goal his top national security priority and ensure its fulfillment. (5) Congress should provide the resources needed to secure vulnerable materials as quickly as possible.

Section 1802. Definitions

Section 1202 of the House bill defines terms used throughout Title XII of the House bill. There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment to clarify the term “items of proliferation concern” and makes a further clarifying change.

Section 1811. Repeal and Modifications of Limitations on Assistance for Prevention of Weapons of Mass Destruction Proliferation and Terrorism

Section 1211 of the House bill repeals and modifies various conditions on assistance to former Soviet States under the Department of Defense Cooperative Threat Reduction (CAR) Program and the Department of Energy Defense Nuclear Nonproliferation programs. Section 1211 would also repeal the cap on Department of Defense CAR program assistance outside the former Soviet Union, with respect to prior year funds, as well as Department of Energy nonproliferation program assistance outside the former Soviet Union, while increasing oversight of such programs.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that removes the repeal and modification of various conditions on assistance to States outside the former Soviet Union under the Department of Energy nonproliferation programs; removes the repeal of the funding cap on Department of Defense CAR assistance outside the former Soviet Union; and makes a clarifying change.

The Conference notes that substitute is consistent with the recommendations of the 9/11 Commission regarding the need to expand, improve, and otherwise fully support the Department of Defense CAR Program and other efforts to prevent weapons of mass destruction proliferation and terrorism.

The Conference further notes that the National Defense Authorization Act for Fiscal Year 2008, as passed by the House of Rep-

resentatives (Report 110-146, May 11, 2007) and the National Defense Authorization Act for Fiscal Year 2008, as reported by the Senate Armed Services Committee (Report 110-77, June 5, 2007) both address the matters contained in this provision, including the funding cap on Department of Defense CAR assistance outside the former Soviet Union, and the Conference expect that any final national defense authorization act for Fiscal Year 2008, as enacted, will further address these matters.

Section 1821. Proliferation Security Initiative Improvements and Authorities

Section 1221 of the House bill expresses the sense of Congress that, consistent with the recommendations of the 9/11 Commission, the President should strive to expand and strengthen the Proliferation Security Initiative (PSI). Section 1221 also requires the Secretary of Defense, in coordination with the Secretary of State and the head of any other Federal Department or Agency involved with PSI-related activities, to submit to the Congressional defense Committees a defined budget for the PSI, beginning with the Department of Defense budget submission for fiscal year 2009. Section 1221 further requires the President to submit to the relevant Congressional Committees, not later than 180 days after the enactment of H.R.1, as passed by the House of Representatives (H.R.1 EH, January 9, 2007), a report on the implementation of section 1221, including steps taken to implement the recommendations of the Government Accountability Office (GAO) in the September 2006 Report titled “Better Controls Needed to Plan and Manage Proliferation Security Initiative Activities”. Section 1221 also directs GAO to submit to Congress, beginning in fiscal year 2008, an annual report on its assessment of the progress and effectiveness of the PSI.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that narrows the scope of the sense of Congress; clarifies the annual budget submission; requires each budget submission to be accompanied by a report on PSI funding and activities; changes the GAO report to a biannual report for 2007, 2009 and 2011; and makes clarifying and technical changes.

The Conference recognizes that the annual budget request and the accompanying report for the PSI, required by the substitute, may not be fully inclusive of all funding required for PSI-related activities during the fiscal year for the budget request given unknown PSI-related activities that may arise throughout the fiscal year. However, the Conference expects the budget request and accompanying report to include all reasonably known obligations, costs and expenditures for PSI-related activities for the fiscal year of the budget request.

The Conference believes that in order to effectively expand and strengthen the PSI, the United States should work with the international community to strengthen the PSI under international law and other international legal authorities. It is important for the United States and other PSI partners to seek greater international recognition of the need to conduct PSI-related activities within certain international areas, so that international waters and airspace do not become “transit sanctuaries” for countries, terrorist organizations, and unscrupulous businesses and individuals seeking to transfer items of proliferation concern. One promising avenue could be to encourage the U.N.’s “1540 Committee,” which is charged with monitoring international compliance with United Nations Security Council Resolution 1540 promoting nonproliferation, to recognize and endorse the need and ability of PSI part-

ners to monitor and, in appropriate circumstances, interdict such shipments.

Section 1822. Authority to Provide Assistance to Cooperative Countries

Section 1222 of the House bill authorizes the President to, notwithstanding any other provision of law, provide Foreign Military Financing, International Military Education and Training, and draw down of excess defense articles and services to any country, for a maximum of three years, that cooperates with the United States and with other countries allied with the United States to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace or in vessels under its control or registry. Such assistance would be provided to enhance the capability of the recipient country to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace, or in vessels under its control or registry, including through the development of a legal framework in that country, consistent with any international laws or legal authorities governing the PSI, to enhance such capability by criminalizing proliferation, enacting strict export controls, and securing sensitive materials within its borders, and to enhance the ability of the recipient country to cooperate in operations conducted with other participating countries. Such assistance could only be provided in accordance with existing procedures regarding reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Finally, this section prohibits the transfer of any excess defense vessel or aircraft to a country until reprogramming notice is made, if that country has not agreed that it will support and assist efforts by the United States to interdict items of proliferation concern.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, with an amendment that narrows the authority and adds an exemption to the limitation on an excess vessel or aircraft transfer if such transfer does not involve significant military equipment and the primary use of the vessel or aircraft will be for counter-narcotics, counter-terrorism or counter-proliferation purposes.

The Conference intends that assistance provided pursuant to this section shall remain subject to all existing law regarding the authorities listed in subsection (b) of this section. Thus, for example, the normal Congressional notification and review procedures will apply, as well as limitations related to human rights or military coups.

Section 1831. Findings; Statement of Policy

Section 1231 of the House bill contains findings and a statement of policy regarding assistance to accelerate programs to prevent weapons of mass destruction proliferation and terrorism. Section 1231 emphasizes that it shall be the policy of the United States, consistent with the 9/11 Commission’s recommendations, to eliminate any obstacles to timely obligating and executing the full amount of any appropriated funds for threat reduction and nonproliferation programs in order to accelerate and strengthen progress on preventing weapons of mass destruction proliferation and terrorism, and that such policy shall be implemented with concrete measures such as those described in Title XII of H.R. 1, as passed by the House of Representatives (H.R.1 EH, January 9, 2007).

There is no comparable Senate provision.

The Conference substitute adopts the House provision with respect to the policy of the United States to eliminate any obstacles to timely obligating and executing the full amount of any appropriated funds for threat reduction and nonproliferation programs,